

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

Clerk's Minutes  
Before the Honorable Kenneth J. Gonzales

CASE NO.: CR 15-4268 KG  
CR 15-4269 KG

DATE: 12/14/2015

Time in court: 40 minutes

TITLE: United States v. DeLeon, et al.  
United States v. Varela, et al.

COURTROOM CLERK: Chris Eubanks COURT REPORTER: Danna Schutte Everett

( ) Albuquerque (X) Las Cruces ( ) Santa Fe ( ) Roswell

( ) Bench warrant ordered

INTERPRETER:

ATTORNEYS PRESENT FOR PLAINTIFF(S):

Maria Armijo  
Randy Castellano

ATTORNEYS PRESENT FOR DEFENDANT(S):

Russell Dean Clark (telephonic)  
Mario Carreon  
Carlos Ibarra  
Jeffrey Lahann  
Orlando Mondragon  
Noel Orquiz  
Stephen Hosford  
Pedro Pineda  
Margaret Strickland  
Santiago Hernandez  
Steven Almanza  
Mary Stillinger  
Richard Jewkes  
B. J. Crow  
Cesar Pierce-Varela  
Charles McElhinney  
Marcia Milner  
Marc Lowry  
Cori Ann Harbour-Valdez  
Gary Mitchell

**TYPE OF PROCEEDING:**     **Status Conference**  
**United States' Motion for Extension of Time to Appoint**  
**Learned Counsel (Doc. 75)**  
**Defendant Gallegos' Motion to Seek Authorization for Use**  
**of Electronic Devices at Detention Facility (Doc. 110)**

**EVIDENTIARY:**             **No**

**PROCEEDINGS:**

**1:37 p.m. Court in Session**

Court: Counsel enters appearances. Defendants are not present. Mr. Benjamin has been excused by the Court, as well as Gary Mitchell. Steve McQue and Mark Donatelli are also present. Will consolidate the two cases for the status conference to address matters that need to take up. Also have some matters to take up with defense counsel and ask them to stay after the prosecutors are dismissed. Inquire of Ms. Armijo has to any motions in the next 3 weeks.

Ms. Armijo: Motion to declare case as complex will be sought in both cases.

Court: Third case relating to Christopher Garcia, CR 15-4275, inquires if that case should also be consolidated in this case.

Ms. Armijo: Factually distinct, series of operations up in Albuquerque that are related to this investigation. Part of the enterprise drug trafficking.

Court: If file motion, will this be included in scope of motion.

Ms. Armijo: Yes, as long as there is no opposition. Will tender proposed scheduling order within the next 2 to 3 weeks.

Court: In terms of discovery, where are you.

Ms. Armijo: Have not disclosed yet, can start getting batches out next week.

Scheduling Order will indicate deadline for all discovery to be disclosed. Mr. Archuleta

scheduled to arrive on 12/22 for his court appearance. One fugitive actively seeking. Actively seeking Arturo Garcia.

Court: Ask that scheduling order be done in 2 – 3 weeks. Outstanding motion to delay appointment of learned counsel. Response filed by Ms. Strickland.

Mr. Castellano: Responds; asking to push deadline back, statute requirements. Trying to get an expedited review of case in 45 days and not seeking any mitigation evidence from defense.

Ms. Strickland: Responds.

Court: Inquires as to requests for learned counsel.

Mr. Castellano: Responds; eligible upon the charge, upon defendant's request. Up to each of counsel if want learned counsel be appointed.

Ms. Strickland: Requested at arraignment and by response to motion.

Court: Inquires of counsel requesting assistance of learned counsel.

Ms. Harbour-Valdez: Would not requested learned counsel until case is death penalty certified for Mr. Troup and Mr. Gallegos.

Counsel: Responds individually; Ms. Stilling responds as a possibility. Counsel who would like appointment of learned counsel is Cesar Pierce-Varela.

Ms. Armijo: Responds; in expedited process point.

Court: Have Ms. Strickland and Mr. Pierce-Varela.

Mr. Orquiz: Also would request learned counsel.

Court: (No one else responds wanting learned counsel). Inquires of Mr. McQue and Mr. Donatelli as to appointment of learned counsel.

Mr. McQue: Responds; practice in this district is to appoint learned counsel until case is not a capital case.

Court: Makes inquiries of Mr. McQue, exception to case.

Mr. McQue: Responds. Court should appoint learned counsel. Nineteen individuals with special findings. Establish on record that this case did not arise while serving in the U.S. Attorney's Office.

Ms. Armijo: Responds; case openings and investigation.

Mr. McQue: Resolves that.

Court: Did prosecute a Mauricio Varela who is the father of the defendant who is charged in these two indictments. No involvement while as an Assistant or as the U.S. Attorney.

Mr. Donatelli: Here as a member of the Federal Death Penalty Resource Counsel Project. Addresses the Court as to appointment of learned counsel. Asks for an ex parte meeting with the Court.

Ms. Armijo: Responds regarding fast track versus expedited review.

Court: **Will take under advisement.** Ms. Strickland, Mr. Pierce-Varela and Mr. Orquiz have requested learned counsel. Notes Mr. Mitchell is here. May be helpful to designate one attorney to speak on behalf of the entire group, may not be necessary or against the interest of clients, but if one counsel can speak on behalf of entire group would be helpful. Also, have motion filed by Mr. Benjamin moving the Court for authorization to use electronic devices. Have seen motion before and have spoken with the Marshal Service, please contact Marshal Service if any problems with trying to do this. **Will hold motion in abeyance.** Will require counsel before filing a motion to

consult and confer with all counsel, notify in motion and certify counsel has been contacted and whether anyone has elected to join and who does not. Any other motions the Court can expect within the next 2 – 3 weeks.

Ms. Armijo: Nothing else.

Mr. Ibarra: Question as to client's competency.

Court: Nothing else to pick up with.

**2:17 p.m. Court in Recess**